

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2013-095437

09/17/2015

HONORABLE JEFFREY A. RUETER

CLERK OF THE COURT

K. Gilmet

Deputy

IN RE THE MATTER OF
MARIA GARCIA

DAVID E JOHNSON

AND

URIAH DELGADO

URIAH DELGADO
UP

SCOTT KERR
4140 E BASELINE RD STE 101
MESA AZ 85206

ORDER OF APPOINTMENT OF PARENTING COORDINATOR

NOTICE TO PETITIONER/RESPONDENT: If you have a protected address, you must contact the person appointed below and provide contact information within ten (10) days of the date of this minute entry.

The Court has received the *Parties' List of Proposed Parenting Coordinators*, electronically filed on September 10, 2015 and has randomly make its selection.

The Court has considered the appointment of a Parenting Coordinator. The Court finds that the issues involving parenting plans involve complex family dynamics problems within the meaning of Rule 74, Arizona Rules of Family Law Procedure. These issues often require speedy resolution and involve the consideration of mental health and economic issues crucial to the protection of the best interests of the minor child.

(1) APPOINTMENT OF PARENTING COORDINATOR

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IT IS ORDERED pursuant to A.R.S. §§ 25-405, and Rule 74, Arizona Rules of Family Law Procedure, appointing **Scott Kerr (480) 386-2562** as the Parenting Coordinator in this case, with authority as provided in this order.

The Parenting Coordinator is appointed for a term of 12 months subject to (1) reappointment at the expiration thereof upon the Court's own motion, the request of the Parenting Coordinator, or motion of either party; or (2) earlier removal by Court order based upon motion showing good cause, stipulation of the parties, or resignation by the Parenting Coordinator.

IT IS FURTHER ORDERED that before either party will be allowed to file any petitions regarding parenting time or enforcement of the Court's various parenting orders, the parties shall first consult with the Parenting Coordinator, unless there is an emergency related to the child's health, safety, and welfare. If the issue cannot be resolved with the help of the Parenting Coordinator, the party who wants to file the motion/petition shall file a separate certification that he or she has consulted with the Parenting Coordinator, the date the consultation was made, and the outcome of the consultation. Any motion/petition filed without this separate certification will be automatically denied.

(2) PARENTING COORDINATOR AUTHORITY

IT IS FURTHER ORDERED that the Parenting Coordinator is authorized, subject to the provisions of paragraph 6 of this order, to make recommendations regarding implementation, clarification, modification, and enforcement of any temporary or permanent custody or parenting time/visitation orders of the Court and to make recommendations on the day-to-day issues experienced by the parties in these areas. The Parenting Coordinator is not authorized to make recommendations affecting child support, a change of custody, or a substantial change in parenting time. In the event the Parenting Coordinator determines parenting or family issues or circumstances exist that are significantly detrimental to the welfare of the child and that a change in custody or a substantial change in parenting time is warranted, the Parenting Coordinator may submit the Parenting Coordinator's concerns in writing to the parties and to the Court.

The scope of the authority of the Parenting Coordinator shall be:

- (a) to make recommendations to the Court regarding all current and future disputes arising under or as a result of the custody or parenting time/visitation order as to the minor child, including, by way of example only, disputes over schooling, daycare or babysitting, medical and/or psychological care, activities of the child, discipline, daily routine, transportation, visitation exchanges, vacation and holiday scheduling, or any other "parenting-type" issues and any issue as the Court may from time to time direct; and/or

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- (b) resolve/decide any issue within the scope of authority of the Parenting Coordinator by any dispute-resolution method which may be agreed to by the parties.

The Parenting Coordinator shall formulate recommendations based upon what is in the child's best interest.

The Parenting Coordinator may interview all members of the immediate or extended family or household of both parties and the child at the discretion of the Parenting Coordinator.

The Parenting Coordinator may interview and request the participation of any and all persons who the Parenting Coordinator deems to have relevant information or to be useful participants.

The Parenting Coordinator may recommend that the Court order the parties and/or child to participate in ancillary services to be provided by the Court or third parties, including, but not limited to, physical or psychological examinations and assessments, psychotherapy, counseling, and alcohol or drug monitoring and testing. The Court shall allocate between the parties the cost of any ancillary service ordered.

Time Sensitive Issue Authority and Procedure:

The Court recognizes that occasionally circumstances and parenting issues may arise that may require immediate decision for the welfare of the child and parties.

When a short-term, emerging, and time sensitive situation or dispute within the scope or authority of the Parenting Coordinator arises that requires an immediate decision for the welfare of the child and parties, a Parenting Coordinator may make a binding temporary decision. This interim decision shall be made without prejudice and shall not be regarded as precedent as to any future action or procedure for any other dispute. The decision shall be submitted to the assigned judge, with a copy to the parties (or counsel, if represented), in a written report that shall document all substantive issues addressed and the basis for the decision for review and entry of any appropriate orders at the judge's earliest opportunity. In such an instance and within the purview of the scope of authority of the Parenting Coordinator, the Parenting Coordinator may communicate with the assigned judge in writing, with a copy to the parents (or counsel, if represented), his or her recommendations to the Court. If the Court determines that interim orders may be entered sufficient to resolve the immediate dispute and if the Court makes such an interim order, the Parenting Coordinator has authority to immediately communicate the same to the parties on the Court's behalf. Thereafter, the procedures set forth in paragraph 6(c) hereof shall apply.

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For purposes of example only, and not by limitation, such time-sensitive, emergent situations might be:

- Temporarily changing exchange day, time, or place;
- Attendance at or participation in a special event or occasion by the child or a parent;
- Responsibility for care of a sick child or accompaniment to medical treatment;
- A special non-recurring need of the child or parent.

The Parenting Coordinator report shall document all substantive issues addressed and the basis for the recommendations made to the Court.

The foregoing authority and procedure is implemented as an exception to the procedures set forth in section (5) of this order, based upon the best interests of the child covered by this order.

(3) AUTHORITY OF PARENTING COORDINATOR RE: THE CHILD

The Parenting Coordinator shall have the following rights and authority with regard to the minor child:

- (a) Reasonable access to the child, with reasonable notice;
- (b) Reasonable notice of any and all judicial proceedings including requests for any examination affecting the child, and shall be provided copies of all orders and pleadings filed in this case;
- (c) The Parenting Coordinator shall have access to:
 - [i] all therapists of the child and parents;
 - [ii] all school and medical records of the child and parents;
 - [iii] any and all mental health records, including, but not limited to, psychological testings or evaluations performed on the child or the parents;
 - [iv] any and all teachers/childcare providers for the child.
- (d) The Parenting Coordinator is authorized to interview the parties or child in any combination whether initiated by the Parenting Coordinator or either party. If either party contacts the Parenting Coordinator in writing, the documentation

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or writing given to the Parenting Coordinator shall be provided to the opposing party and counsel, if any, simultaneous to providing it to the Parenting Coordinator.

- (e) At the request of the Parenting Coordinator, each party shall execute any and all releases or consents necessary so as to authorize the Parenting Coordinator's access to the information contemplated herein above.

(4) CONFIDENTIALITY

There is no confidentiality relating to the parties' communications with or to the Parenting Coordinator or concerning the Parenting Coordinator's activities or recommendations.

(5) PROCEDURE

IT IS FURTHER ORDERED that proceedings before the Parenting Coordinator shall be conducted in accordance with the following procedures:

- (a) Either party, the Parenting Coordinator, or the Court may initiate proceedings before the Parenting Coordinator. Both parties shall participate in the dispute resolution processes defined by the Parenting Coordinator.
- (b) Once proceedings are initiated under (a) above, the Parenting Coordinator shall determine, at his or her discretion, the sequence and frequency of meetings and who shall participate in any sessions/meetings. Notice may be made by mail to the last known address supplied to the Court or, if circumstances demand, the Parenting Coordinator may notify the parties orally and make a notation of the date and time of the notification. The Parenting Coordinator shall proceed with all reasonable diligence. If a party fails to appear at a time and place appointed, the Parenting Coordinator may proceed at that time, or at the Parenting Coordinator's discretion, continue the meeting to a future day, with notice to the absent party.
- (c) If either party fails to participate as requested by the Parenting Coordinator, then in addition to all other remedies available under law, the Parenting Coordinator may proceed and make recommendations regarding the dispute, if necessary, without the participation of such party.
- (d) The Parenting Coordinator is not required to make a record of the proceedings; however, any party, at their option and expense and upon reasonable notice, may make a record of any information offered. The Parenting Coordinator

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may, in his or her discretion, tape record or video record or otherwise preserve any information presented to the Parenting Coordinator.

- (e) The Parenting Coordinator or the parties may request that the Court procure the attendance of witnesses for any proceedings conducted by the Parenting Coordinator.
- (f) The Parenting Coordinator may request that the Court, with notice to the parties, issue subpoenas to require the appearance of any person within the jurisdiction of this Court and/or require the production of any documents within the jurisdiction of this Court or under the control of either party or their agents.
- (g) If either or both parties are represented by counsel, there shall be no ex parte communications between the Parenting Coordinator and counsel, except if such communication relates solely to scheduling matters.
- (h) Additional rules applicable to the Parenting Coordinator may be ordered by the Court from time to time.

(6) RECOMMENDATIONS AND OBJECTIONS

- (a) Recommendations by the Parenting Coordinator must be made or confirmed in a written report to the Court and to the parties in substantially the same format as set forth in Form 9 of Rule 97, Arizona Rules of Family Law Procedure, which shall be submitted to the Court no later than five (5) days after an oral determination or receipt of all information necessary to make a recommendation. A copy of the report will be mailed or transmitted to the parties or their counsel on the date of submission. The report may be transmitted by fax or email to the parties at a fax number or email address provided by the parties to the Parenting Coordinator.
- (b) The Parenting Coordinator may, in his or her discretion, submit draft recommendations to the parties or their counsel for the purpose of receiving their suggestions. The Parenting Coordinator may, at his or her discretion, require the parties or their counsel to submit proposed draft recommendations to the Parenting Coordinator.
- (c) The Court, upon receipt of a report and recommendation from a Parenting Coordinator, may:
 - [i] approve the recommendation and adopt it as an interim order of the Court, subject to either party objecting or requesting a hearing within ten

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- (10) days from the date the report and recommendation is submitted to the Court;
- [ii] modify the recommendation and adopt the modified recommendation as an interim order of the Court, subject to either party objecting or requesting a hearing within ten (10) days from the date the report and recommendation is submitted to the Court;
 - [iii] reject the recommendation report in whole or in part and affirm the current order, subject to either party objecting or requesting a hearing within ten (10) days from the date the report and recommendation is submitted to the Court; or
 - [iv] set a hearing on the assigned judicial officer's calendar.
- (d) A party who objects shall clearly state in writing the objection to the recommendation, the basis for the objection, a proposed solution, and whether a hearing is requested. The judicial officer will set a hearing if requested. By agreement of the parties or if the Court so orders, the recommendations of the Parenting Coordinator will remain in effect during this objection period and process unless and until it is affected by a further order of the Court.

(7) APPEARANCES

- (a) The Parenting Coordinator may appear and shall be available to testify at any Court hearing upon reasonable notice to the Parenting Coordinator, the Court, and the opposing party regarding any issue addressed by the Parenting Coordinator.
- (b) If transcripts, tape recordings, or videotapes have been made of any portions of the Parenting Coordinator proceedings, they shall be submitted to the Court.

(8) DISCLOSURES

The parties shall keep the Parenting Coordinator advised of their and the child's addresses, telephone numbers for home, work, and school, mailing address, if different than the living address, as well as any other pertinent information. This information shall be immediately communicated in writing to the Parenting Coordinator.

(9) IMMUNITY

The Parenting Coordinator has immunity in accordance with Arizona law as to all acts undertaken pursuant to and consistent with the appointment order of the Court.

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Any alleged impropriety or unethical conduct by the Parenting Coordinator shall be brought to the attention of the Court in writing.

(10) FEES

IT IS FURTHER ORDERED Petitioner shall be responsible for and pay fifty percent (50%) of the Parenting Coordinator's fees and Respondent shall be responsible for and pay fifty percent (50%) of the Parenting Coordinator's fees until further order of the Court. All fees shall be paid in advance as determined by the Parenting Coordinator. The Parenting Coordinator shall keep accurate records of services rendered and fees paid by each party.

IT IS FURTHER ORDERED that should the Parenting Coordinator determine that one of the parties is using his or her services unnecessarily and is thereby causing greater expense for the other party as a result thereof, the Parenting Coordinator may recommend to the Court a different allocation for payment of fees.

IT IS FURTHER ORDERED that should the Parenting Coordinator find any party is acting in bad faith, and/or not complying with the Court's orders, the Parenting Coordinator may recommend that the party acting in bad faith pay or reimburse the other party's costs of services provided by the Parenting Coordinator necessitated by the party acting in bad faith, and the Parenting Coordinator may recommend additional sanctions, which may include modifications of access and/or contempt proceedings.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

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/S/ HON. JEFFREY A. RUETER

Date

The Honorable Jeffrey A. Rueter
Judge of the Superior Court

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.